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Remarks:

The amendments entered to the claims are not intended to disclaim any patentable subject matter, and are to be entered without prejudice or traverse. The applicant expressly reserves the right to reinstate the subject matter amended or canceled from the foregoing claims at a later date.

*Regarding the rejection of claims 1-4 under 35 USC 102(b) in view of US 4805839 to Malek:*

The applicant respectfully traverses the rejection of the outstanding claims in view of the Malek reference.

As the applicant points out in his own specification, the applicant's overcap provides advantageous benefits which are not provided by the construction or configuration of the Malek overcap. As noted by the present applicant in the instant application:

"[0002] Aerosol actuator buttons are well known in the art and are used to atomize a pressurized liquid into a spray which can be delivered into a room or to coat an object with the atomized spray. A variety of different types and examples of actuator buttons are disclosed in U.S. Pat. No. 4,805,839 to S. C. Johnson & Son, Inc. The actuator button disclosed in U.S. Pat. No. 4,805,839 diverts its spray away from the user by having an asymmetrical conical depression in the bottom of the button where the configuration of the conical depression causes the liquid escaping from the orifice to be tilted away from the central long axis of the cavity which receives the free end of an aerosol valve so that the central long axis of the aerosol spray pattern is tilted away from the central long axis of the cavity at a preselected angle.

[0003] Such an arrangement and tilting of the aerosol spray pattern can have a negative effect on the delivery and quality of aerosol product into the area which is being treated by the aerosol. The delivery and quality of aerosol product is dependent upon the atomization of the liquid which is being delivered as an aerosol through the actuator. The finer the particle size of atomization, the longer the fragrance, or other material to be delivered, will stay in the room atmosphere as well as providing for a larger area of coverage due to the diffusion of the fragrance, or other material, out of the particles.

[0004] With that background, the present invention provides for an actuator button which provides better atomization of liquid into the air. In addition, with the spray being

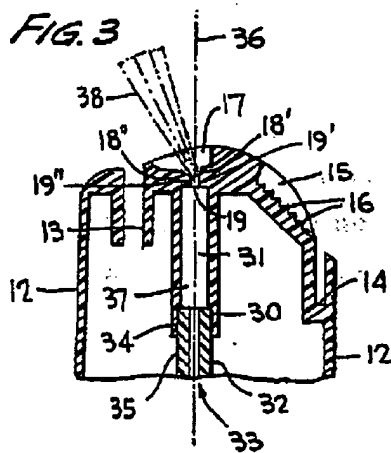
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dispensed along the central long axis, the user will have better control over dispensing the aerosol without having to remember the angle at which the actuator button of U.S. Pat. No. 4,805,839 is positioned."

Thus, the actuator overcap of Malek fails to operate or fulfill the improved atomization of the contents released therethrough, which – simply stated – cannot be the same as the present applicant's inventive overcap. Thus, the Malek overcap cannot be seen as anticipating the current applicant's overcap.

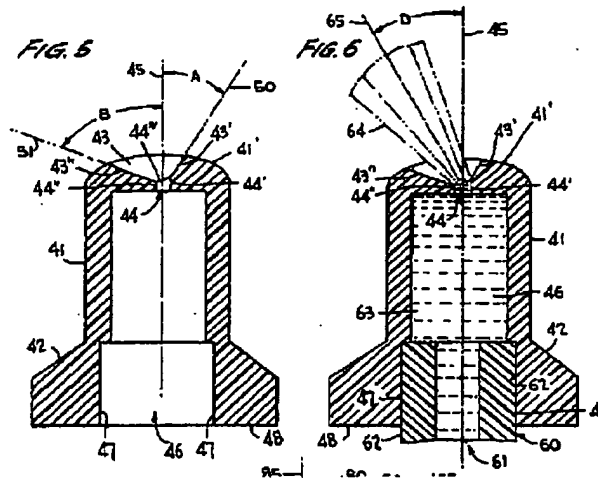
The Malek overcap is illustrated as follows:



and

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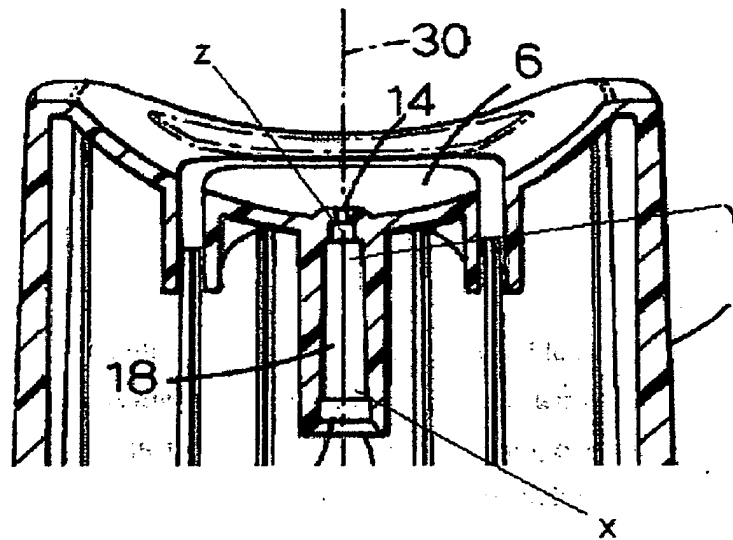
As can be seen from these foregoing figures, a key and characteristic feature of the Malek overcap is that there is provided an "offset" spray pattern ("36" of Fig. 3) which is purposely designed as a feature of the Malek overcap. As the applicants have pointed out in the instant application, overcaps of the type disclosed by Malek are distinguishable from those which we now claim in providing an "offset" spray delivery pattern which the applicants had discussed in their specification that "Such an arrangement and tilting of the aerosol spray pattern can have a negative effect on the delivery and quantity of aerosol product into the area which is being treated by the aerosol." Thus, Malek is deficient in this regard, and inherently suffers poor delivery characteristics which plague caps according to designs according to Malek. With reference now to the currently claimed invention, Malek may be further distinguished in that Malek does not include a tapered interior passage, but includes only a cylindrical center bore which does not provide for convergence of the material exiting the valve stem of the aerosol before it passes through the exit orifice. In contrast, our overcaps provide for superior spraying characteristics which are not anticipated or taught by Malek.

Additionally the applicants point out that the Malek overcap includes only a single chamber (46) which then immediately transits to the offset orifice (44') and fails to

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include a reducing chamber portion intermediate a tapering cavity of the actuating means. This contrasts with the internal configuration of the applicant's preferred overcap configuration, as is illustrated on Fig. 4 which is reproduced here:

**Fig.4.**

A careful examination of this figure will show that there is indeed an 'inward taper' of the cavity (18) as it extends from its open end "X" to its end "Y" proximate the orifice (14). The applicant has found that this plays a role in improving the ultimate characteristics of the aerosol spray quality being delivered. As may be additionally seen in the foregoing figure, there additionally is present a second, small "chamber" "Z" which is illustrated in each of the applicant's embodiments and which plays an important technical role. Namely it has been observed that the transition between the cavity (18) and the small chamber "Z" presents a significant reduction in the available volume of space through which the material must exit, coupled with a circular "sharp edge" at the transition from the cavity (18) and the exit orifice (14) which plays a significant role in further breaking up the material exiting the aerosol, still further improving the

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atomization of the material before it reaches the exit orifice (14). Thus it can be seen that applicant's overcap provides a large, tapered cavity which transits to a short, much smaller cavity, and thereafter to the exit orifice. It is believed that this sequence of transitions significantly provides a surprising and significant improvement to the quality of our aerosol delivery system, -- as has been suggested in para. [0003] and [0004] of applicant's specification --, but which is absent in the prior art, especially in the Malek reference.

The Examiner is respectfully reminded that an applicant may show possession of an invention by disclosure of drawings or structural chemical formulas that are sufficiently detailed to show that applicant was in possession of the claimed invention as a whole. See, e.g., *Vas-Cath*, 935 F.2d at 1565, 19 USPQ2d at 1118 ("drawings alone may provide a 'written description' of an invention as required by Sec. 112\*"); *In re Wolfensperger*, 302 F.2d 950, 133 USPQ 537 (CCPA 1962) (the drawings of applicant's specification provided sufficient written descriptive support for the claim limitation at issue); *Autogiro Co. of America v. United States*, 384 F.2d 391, 398, 155 USPQ 697, 703 (Ct. Cl. 1967) ("In those instances where a visual representation can flesh out words, drawings may be used in the same manner and with the same limitations as the specification.") See also MPEP, Sec. 2163. Thus it is believed that the applicant's specification, as filed, and in particular the drawings, as filed, provide ample support for the current amendments to the claims presented herein.

Now with regard to the current rejection under 35 USC 102(b) the applicant points out that unpatentability based on "anticipation" type rejection under 35 USC 102(b) requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee").

Anticipation requires that a single reference describe the claimed invention with

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sufficient precision and detail to establish that the subject matter existed in the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990). It is the applicant's position that the currently amended claims are both unanticipated, as well as unobvious over the prior art of record.

Accordingly, reconsideration of the propriety of the rejection under 35 USC 102(b), and its withdrawal in view of the amended claims presented herein is solicited.

Should the Examiner believe that telephonic communication will advance the prosecution of the present application they are invited to telephone the undersigned at their convenience.

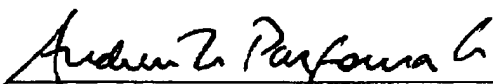
Petition for a One-Month Extension of Time

The applicant respectfully petitions for a one-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this Petition.

Conditional Authorization for Fees

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;



Andrew N. Parfomak, Esq.

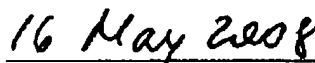
Reg.No. 32,431

Norris, McLaughlin & Marcus, PC

875 Third Ave., 18<sup>th</sup> Floor

New York, NY 10022

Tel: 212 808-0700




Date:

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I certify that this document, and any attachments thereto, is being telefax transmitted on the date indicated below to telefax number : 571 273-8300 and is addressed to the: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450."



Andrew N. Parfomak

16 May 2008

Date

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